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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,876	10/03/2003	Minh Duy Khuc	1202a	1277
28/004 SPRINT 6391 SPRINT PARKWAY KSOPHT0101-Z2100 OVERLAND PARK, KS 66251-2100	7590 07/11/2008		EXAMINER PHAN, TRI H	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/678,876

**Applicant(s)**

KHUC ET AL.

**Examiner**

TRI H. PHAN

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### **Reopen Prosecution**

1. In view of the Appeal Brief filed on April 3<sup>rd</sup>, 2008, PROSECUTION IS HEREBY REOPENED. New ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

## DETAILED ACTION

2. This Office action is in response to the Appeal Brief filed on April 3<sup>rd</sup>, 2008. In view of the following new grounds of rejection, the previous final Office action has been withdrawn. Claims 1-27 are now pending in the application.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-5, 7-13, 15-19 and 21-27 of the instant application are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-68 of U.S. Patent No. 6,690,664 (hereinafter refer as '0664'). Although the conflicting claims are not identical, they are not patentably distinct from each other, because claims 1 and 15 of the instant application are also disclosed method and system for operating in the telecommunications network ('A method and communication system for handling a call ...') which comprise a call processing system ('a first communication system') and routing system ('a second communication system') with

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functionalities such as receiving signaling ..., processing the signaling to generate a query ..., transmitting the query ..., receiving the query response ..., transferring communications ... in packet ... ' in the method claim or in the system claim of the patent 0664; and where the distinctness is obvious variation between the terms, such as "packet address" of the invention's method claims with the "absolute address" of the patent 0664's method claims (and where the provided 'call information' includes caller number, dialed number, a time of the call, number of the resources used; and where the 'absolute address' is a hardware address, port identifier, MAC-layer address, ATM address, ...; where the address is obvious in the "header of the packet"); "call processing system" and "routing system" of the invention's system claims with the "first communication system" and "second communication system" of the patent 0664's system claims.

5. Claims 1-5, 7-13, 15-19 and 21-27 of the instant application are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-32 and 65-96 of U.S. Patent No. 6,473,505 (hereinafter refer as '3505'). Although the conflicting claims are not identical, they are not patentably distinct from each other, because claims 1 and 15 of the instant application are also disclosed method and system for operating in the telecommunications network ('A method and communication system for handling a call ...) which comprise a call processing system ('an interface') and routing system ('a processing system') with functionalities such as receiving signaling ..., processing the signaling to generate a query ..., transmitting the query ..., receiving the query response ..., transferring communications ... in packet ... ' in the method claim or in the system claim of the patent 3505; and where the distinctness is obvious variation between the terms, such as "packet address" of the invention's method claims with the "absolute address" of the patent 3505's method claims (and where the provided 'call information' includes caller number, dialed number, a time of the call, number of the resources used; and where the 'absolute address' is a hardware address, port identifier, MAC-layer address, ATM address, ...; where the address is obvious in the "header of the packet"); "call processing system" and "routing system" of the invention's system claims with the "interface" and "processing system" of the patent 3505's system claims.

6. Claims 1-5, 7-13, 15-19 and 21-27 of the instant application are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-31 and 63-93 of U.S. Patent No. 7,043,004 (hereinafter refer as '3004'). Although the conflicting claims are not identical, they are not patentably distinct from each other, because claims 1 and 15 of the instant application are also disclosed method and system for operating in the telecommunications network ('A method and communication system for handling a call ...) which comprise a call processing system ('call processing system') and routing system ('a network element system') with functionalities such as receiving signaling ..., processing the signaling to generate a query ..., transmitting the query ..., receiving the query response ..., transferring communications ... in packet ... ' in the method claim or in the system claim of the

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patent 3004; and where the distinctness is obvious variation between the terms, such as "packet address" of the invention's method claims with the "packet indicating the call center resource" of the patent 3004's method claims (and where the provided 'call center resource information' includes caller number, dialed number, a time of the call, number of the resources used; and where the 'call center resource' is a hardware address, port identifier, MAC-layer address, ATM address, ...; where the address is obvious in the "header of the packet"); "call processing system" and "routing system" of the invention's system claims with the "call processing system" and "network element system" of the patent 3004's system claims.

7. Claims 1-2, 9, 15-16 and 22 of the instant application are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4, 10-14, and 20 of copending Application No. 11/369,068 (hereinafter refer as '9068'). Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1 and 15 of the instant application are also disclosed method and system for operating in the telecommunications network ('A method and call-handling system ...') which comprise a call processing system ('a communication system') and routing system ('a call center') with functionalities such as receiving signaling ..., processing the signaling to generate a query ..., transmitting the query ..., receiving the query response ..., transferring communications ... in packet ...' in the method claims or in the system claims of the patent 9068; and where the distinctness is obvious variation between the terms, such as "header having the packet address" of the invention's method claims with the "packet address" of the patent 9068's method claims (where the selected 'packet address' includes caller name, caller address, caller-entered account number); and wherein the packet address is obvious in the "header of the packet"; "call processing system" and "routing system" of the invention's system claims with the "communication system" and "call center" of the patent 9068's system claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-10, 12, 14-23, 25 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by **Khuc, Minh Duy** (U.S.6,470,008; hereinafter refer as '**Khuc**').

- In regard to claims 1 and 15, **Khuc** discloses an Internet routing method and system ("*telecommunications system*"; for example see figs. 1-4), *which comprise a call processing system ('internet gateway') configured to receive signaling for a voice call, process the signaling to generate a query to a call center ('routing system'), transmit the query to the call center, and receive a query response wherein the query response includes a packet address ('internet address'; for example see col. 3, lines 1-18); and*

*a routing system ('communications networks'; for example see col. 3, lines 1-7) configured to transfer communications for the voice call to the call center in packets wherein the packets include headers having the packet address ('internet packet'; for example see col. 3, lines 50-56; where the packet address is inherently in the internet packet header).*

- Regarding claims 2-9 and 16-22, **Khuc** further discloses the query information *is based on caller number, time of day, day of week/year, geographic region, called number, load balancing statics of call center resources, caller entered digits* (for example see col. 3, lines 40-50, 63-67; col. 8, lines 2-15).

- In regard to claims 10, 12, 23 and 25, **Khuc** further discloses, wherein packet address comprises *a hardware address of a device or a MAC-layer address* (for example see col. 4, lines 49-58; wherein the "MAC address" or "hardware address" of the device is used in Ethernet system).

- Regarding claims 14 and 27, **Khuc** further discloses, *wherein the packet address does not require translation at the call center to identify the device* (for example see col. 2, lines 24-32; wherein the simply queries do not required complex data processing, e.g. "translation", to identify the device).

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 11, 13, 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Khuc, Minh Duy** (U.S.6,470,008).

- In regard to claims 11, 13, 24 and 26, **Khuc** discloses all the subject matter of the claimed invention as discussed above except implementing "*port identifier*" or "*ATM address*" in packet address. However, "*port identifier*" or "*ATM address*" is well known in the telephone and ATM network for routing telephone call or cell, e.g. "packet".



Therefore, it would have been obvious to the person of ordinary skill in the art at the time of the invention was made to use port identifier or ATM address as system design choices, when routing the call in the telephone or ATM network.

### ***Response to Arguments***

12. Applicant's arguments with respect to claims 1-27 in the response filed on 04/03/2008 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Hurd, Michael D.** (U.S.5,923,745), **Miloslavsky, Alec** (U.S.5,905,792) and **Miloslavsky et al.** (U.S.6,625,139) are all cited to show devices and methods for routing call in telecommunication architectures, which are considered pertinent to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri H. Phan, whose telephone number is (571) 272-3074. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H. Pham can be reached on (571) 272-3179.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office, whose telephone number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tri H. Phan/  
Examiner, Art Unit 2616  
July 12, 2008

/Chi H Pham/  
Supervisory Patent Examiner, Art Unit 2616  
7/9/08